

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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| IN RE: PHARMACEUTICAL INDUSTRY |) | MDL No. 1456 |
| AVERAGE WHOLESALE PRICE |) | Master File No. 1:01-CV-12257-PBS |
| LITIGATION |) | Sub-Category Case No. 1:08-CV-11200 |
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| |) | |
| |) | |
| THIS DOCUMENT RELATES TO: |) | Judge Patti B. Saris |
| <i>United States ex rel. Linnette Sun and Greg</i> |) | |
| <i>Hamilton, Relators</i> |) | |
| <i>v.</i> |) | |
| <i>Baxter Healthcare Corporation</i> |) | |
| |) | |
| |) | |

THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER

Counsel for Defendant Baxter Healthcare Corporation and Counsel for Relators Linnette Sun and Greg Hamilton have conferred and have jointly agreed upon a proposed schedule for this case as set forth in the attached document. The parties hereby request that the Court accept and adopt the proposed schedule.

Respectfully submitted,

Dated: March 14, 2011

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[PROPOSED] SCHEDULING ORDER

March ___, 2011

Saris, U.S.D.J.

WHEREAS, Relators Linnette Sun and Greg Hamilton (“Relators”) filed their original Complaint on April 22, 2005 and a First Amended Complaint on June 14, 2005 in the U.S. District Court, District of Colorado;

WHEREAS, the First Amended Complaint was unsealed on January 15, 2008, and assigned Civil Action No. 05-cv-00736-WDM-MJW;

WHEREAS, the matter was transferred to the District of Massachusetts by the Judicial Panel Multidistrict Litigation on July 14, 2008 and assigned case No. 08-cv-11200-PBS;

WHEREAS, the case was consolidated with Case No. 01-cv-12257-PBS (MDL No. 1456) on July 15, 2008;

WHEREAS, on October 15, 2010 the parties filed and on October 28, 2010 this Court approved a proposed scheduling order whereby the parties were to engage in mediation prior to December 31, 2010 in an attempt to resolve this matter and, if not successful, were to file by no later than January 17, 2011, a jointly proposed schedule for further proceedings;

WHEREAS, on January 7, 2011 the parties filed and on January 14, 2011 this Court approved a proposed scheduling order whereby the parties were to continue to engage in mediation prior to March 1, 2011 in an attempt to resolve this matter and, if not successful, were to file by no later than March 15, 2011, a jointly proposed schedule for further proceedings;

WHEREAS, the parties have been working diligently to resolve this matter, and would like to continue to pursue resolution of this matter;

WHEREAS, initially, settlement negotiations with Ven-A-Care included this case; however, as negotiations progressed, the negotiations focused only on the Ven-A-Care case;

WHEREAS, Baxter has made substantial progress toward settlement of the Ven-A-Care *qui tam* and whereas those parties believe that further negotiations may likely lead to resolution of the matter;

WHEREAS, in the meantime, Baxter has requested a Sun/Hamilton specific settlement demand;

WHEREAS, Sun/Hamilton are currently working to access payment data that would permit Plaintiffs to make a demand based on solid calculation;

WHEREAS, on March 7, 2001, Baxter and Ven-A-Care requested extension of the mediation period until June 24, 2011 (Sub Docket No. 1:10-CV-11186).

NOW THEREFORE, it is ORDERED, as follows:

1. Relator and Defendants shall continue to engage in informal mediation prior to June 24, 2011 in an attempt to resolve this matter;
2. All deadlines shall be stayed during the pendency of this mediation period;
3. Should mediation not be successful, the parties will, by no later than July 15, 2011, jointly propose a schedule to the court for further proceedings

So ordered.

Judge Patti B. Saris

CERTIFICATE OF SERVICE

I hereby certify that I, Shamir Patel, an attorney, caused a true and correct copy of the foregoing **THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER** and attached **PROPOSED ORDER** to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on March 14, 2011, for posting and notification to all parties.

/s/ Shamir Patel
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